IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Arbitration Case No. 71 of 2005
Date of Decision: 12.01.2007

P.D.Aggarwal Engineers and Contractors

.....Petitioner through
Mr. Vivek Suri,
Advocate

versus

B.R.S.Institute of Medical Sciences and another

.....Respondent No.1 through
Mr. Ashwani Talwar,
Advocate

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE

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Vijender Jain, Chief Justice (Oral)

There is an Arbitration Clause for settlement of disputes between the parties. Clause 11 of the agreement contains the Arbitration Clause which reads as under:-

> *"If any dispute, difference or question shall at any time arise between the Employer and the Contractor as to the construction of this agreement or concerning any thing herein contained or arising out of this agreement or as to the rights, liabilities and duties of the said parties, hereunder, or as to the execution of the*

> *said works, the same shall be referred to the Consuling Architects who would act as an Arbitrator for which his fees shall be determined and shared by both the parties and his final decision shall be binding on both the parties. It is hereby provided that the Arbitrator so appointed shall made his award within six months from the date of Arbitrator entering on the reference."*

Pursuant to the said clause, the respondent has supplied the vacancy. Learned counsel appearing for the petitioner has contended that the Arbitrator is Consulting Architect and the Contractor of the respondent which fact is denied by the respondent. The law provides that the petitioner can make an application in accordance with Section 16 of the Arbitration and Conciliation Act, 1996 regarding competency of arbitral Tribunal to rule on its jurisdiction, which application he has already sent to the Arbitrator. The Architect appointed by the respondent is appointed as an Arbitrator.

However, it is made clear that on proper application, if any, filed before the Arbitrator regarding his disqualification in terms of the Act, the Arbitrator will make appropriate order in accordance with law.

The petition stands disposed of.

(VIJENDER JAIN)
CHIEF JUSTICE

12.01.2007.
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